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FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

Oct 21, 2024

SEAN F. McAVOY, CLERK

6 UNITED STATES DISTRICT COURT  
7 EASTERN DISTRICT OF WASHINGTON  
(Honorable Stanley A. Bastian)

8  
9 UNITED STATES OF AMERICA, ) Case No.: 1:23-CR-2026-SAB  
10 Plaintiff, )  
11 vs. ) STATEMENT OF DEFENDANT ON PLEA OF  
12 DAVID ROGER FRANKLIN, ) GUILTY  
13 Defendant )  
14

15 COMES NOW, David Roger Franklin, by and through his attorney of record, Gregory L. Scott, and  
16 hereby notifies this honorable court of his intention to plead guilty to Counts 1 through 5 of the Indictment  
17 filed on May 16, 2023 in the Eastern District of Washington ECF 1.

18 Mr. Franklin states as follows: I understand that before accepting my change of plea, the court will  
19 place me under oath. I further understand that any false statements made by me could be the basis for a  
20 finding that I have obstructed justice and also could be used by the government to form the basis for  
21 additional charges, including perjury.

1 **INDICTMENT:**

2 I have received a copy of the indictment filed herein on May 16, 2023. I have fully discussed that  
3 with my attorney and I understand the charges against me including the maximum penalties as listed in the  
4 penalty slip read to me at my arraignment and discussed with me by my lawyer.

5

6 **CONSTITUTIONAL RIGHTS:**

7 I have been informed and I fully understand that I have the following important constitutional rights  
8 and I give them all up if I plead guilty.

9 1. I have the right to remain silent.

10 2. I have the right to a jury trial.

11 3. I have the right to see, hear and question all the witnesses against me.

12 4. I have the right to present my own witnesses at trial. They can be made to appear at no cost to  
13 me.

14 5. I have the right to testify at trial if I so choose.

15 6. I have the right to be presumed innocent until and unless the government proves, by competent  
16 evidence, that I am guilty beyond a reasonable doubt, of each and every element of each charge  
17 against me.

18 I understand that if I plead guilty, I am giving up all of these rights. There will be no trial, no  
19 witnesses, no right to confront witnesses against me, no right to remain silent or to have the government  
20 prove the charges against me. However, I also understand that I will retain the right to be represented by  
21 an attorney, including one at no cost to me if I cannot afford one, through sentencing and any direct appeal.

1 **POTENTIAL IMMIGRATION CONSEQUENCES:**

2 I have been informed and I fully understand that if I am not a citizen of the United States, pleading  
3 guilty to any or all of the charges listed in the indictment against me could have immigration consequences.  
4 I understand that if I am not a citizen of the United States, the offenses I am pleading guilty to could result  
5 in my removal from the United States, denial of naturalization pursuant to the laws of the United States or  
6 denial of permission to remain in the United States. Removal from the United States and/or other  
7 immigration consequences are the subject of separate proceedings and that no one, including my attorney  
8 or the court can predict with absolute certainty the effect on my immigration status if I am not a citizen of  
9 the United States.

10 I hereby affirm that I am knowingly, intelligently and voluntarily pleading guilty as set forth in this  
11 Statement of Defendant on Plea of Guilty, regardless of any immigration consequences that my guilty plea  
12 may entail.

13  
14 **SENTENCING:**

15 I understand that sentencing is a matter that is entirely in the discretion of the court. The court is  
16 not bound to follow the recommendation of any party. I further understand that the court may impose any  
17 sentence up to the maximum penalty as proscribed by law for each count. I also understand that the court,  
18 in its discretion, this court can run all of those maximum sentences consecutive to one another for a total  
19 prison sentence of 130 years. (30 years each on counts 1, 2 & 3, 20 years each on counts 4 and 5.) The  
20 fact that I am disappointed in the sentence that I receive is not a basis to withdraw my guilty plea.  
21  
22  
23  
24

1 **ELEMENTS OF THE OFFENSE:**

2 I understand that in order to convict me of Production of Child Pornography, in violation of 18  
3 U.S.C. § 2251(a), (e), as charged in Counts 1, 2 & 3, the government would have to prove the following  
4 beyond a reasonable doubt:

5 a) First, between, on or about June 6, 2021 (Count 1) and on or about July 17, 2021, (Count  
6 2), and between on or about April 11, 2018, and on or about August 6, 2021, (Count 3),  
7 within the Eastern District of Washington, Minor A was under the age of 18 years;

8 b) Second, that I used or employed Minor A to take part in sexually explicit conduct for the  
9 purpose of producing a visual depiction of such conduct; and

10 c) Third, the visual depiction was produced using materials that had been mailed, shipped, or  
11 transported across state lines or in foreign commerce.

12 I understand that in order to convict me of Transportation of Child Pornography, in violation of 18  
13 U.S.C. § 2252A(a)(1), as charged in Count 4, the government would have to prove the following beyond a  
14 reasonable doubt:

15 a) First, that on or about July 18, 2021, within the Eastern District of Washington, that I  
16 knowingly transported a visual depiction using any means or facility of interstate  
17 commerce by any means including by computer or mail;

18 b) Second, the production of such visual depiction involved the use of a minor engaging in  
19 sexually explicit conduct;

20 c) Third, the production of such visual depiction involved the use of a minor engaging in  
21 sexually explicit conduct;

22 d) Fourth, that I knew that such visual depiction was of sexually explicit conduct; and

e) Fifth, that I knew that at least one of the persons engaged in sexually explicit conduct in such visual depiction was a minor.

I understand that in order to convict me of Possession of Child Pornography, in violation of 18 U.S.C. § 2252A(a)(4)(B), (b)(2), as charged in Count 5, the government would have to prove the following beyond a reasonable doubt:

- a) First, that on or about and between June 21 and June 30, 2022, within the Eastern District of Washington, that I knowingly possessed any matter that I knew contained visual depictions of minors engaged in sexually explicit conduct;
- b) Second, that I knew the visual depictions contained in that matter showed minors engaged in sexually explicit conduct;
- c) Third, that I knew that production of such visual depictions involved the use of a minor in sexually explicit conduct; and
- d) Fourth, those visual depictions had been transported using any means or facility of interstate commerce or was produced using materials that had been shipped or transported using any means or facility of interstate commerce or had been shipped and transported in and affecting interstate and foreign commerce by any means including by computer.

1 **MANDATORY SPECIAL PENALTY ASSESSMENTS:**

2  
3 Mr. Franklin understands that the Court, at the time of sentencing, will impose a mandatory \$100  
4 special penalty assessment per count for each count that the Court has found him guilty of.

5  
6 I understand that the court shall also impose other assessments as outlined under 18 USC § 2259A  
7 unless the court determines that I am indigent. Those assessments are outlined in the penalty slip I was  
8 given at the time of my arraignment.

9  
10 **RESTITUTION:**

11  
12 I understand that restitution is required pursuant to 18 U.S.C. §§ 2259, 3663, 3663A and 3664. I  
13 also understand that restitution is mandatory and that the Court must impose the amount of restitution that  
14 comports with my relative role in the causal process that underlies the general losses of the victims.  
15 *Paroline v. United States*, 572 U.S. 464 (2014); 18 U.S.C. § 2259.

16  
17 I understand that pursuant to 18 U.S.C. § 2259, the government shall submit restitution information  
18 of any victims' losses. I will be given an opportunity to be heard on that matter and challenge the  
19 government's information. The Court will determine the amount of loss that reflects my relative role in  
20 the causal process that underlies the victim's losses, but not less than \$3,000.00.

21  
22 Mr. Franklin also understands that a victim's total aggregate recovery pursuant to 18 USC § 2259  
23 shall not exceed the full amount of the victim's demonstrated losses. After the victim has received

1 restitution in the full amount of the victim's losses as measured by the greatest amount of such losses found  
2 in any case involving that victim that has resulted in a final restitution order under 18 USC § 2259, the  
3 liability of each defendant who is or has been ordered to pay restitution for such losses to that victim shall  
4 be terminated. The court may require the victim to provide information concerning the amount of restitution  
5 the victim has been paid in other cases for the same losses. 18 USC § 2259(b)(2)(C).

6

7 **FACTUAL BASIS FOR THE PLEA:**

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9 The court has asked me to state in my own words what I did to cause me to be guilty of these crimes.

10 This is my statement:

11

12 **Counts 1, 2 &3:**

13

14 a) First, between, on or about June 6, 2021 (Count 1) and on or about July 17, 2021, (Count  
15 2), and between on or about April 11, 2018, and on or about August 6, 2021, (Count 3),  
16 within the Eastern District of Washington, Minor A was under the age of 18 years;

17 b) Second, that I used or employed Minor A to take part in sexually explicit conduct for the  
18 purpose of producing a visual depiction of such conduct; and

19 c) Third, the visual depiction was produced using materials that had been mailed, shipped, or  
20 transported across state lines or in foreign commerce.

21 In summary, on the dates and times listed in the Indictment, I took pictures of Minor A using my  
22 cell phone as alleged in counts 1, 2 & 3, of the Indictment.

1 **Count 4:**

2

3 a) First, that on or about July 18, 2021, within the Eastern District of Washington, I  
4 knowingly transported a visual depiction using any means or facility of interstate  
5 commerce by any means including by computer or mail;

6 b) Second, the production of such visual depiction involved the use of a minor engaging in  
7 sexually explicit conduct;

8 c) Third, the production of such visual depiction involved the use of a minor engaging in  
9 sexually explicit conduct;

10 d) Fourth, that I knew that such visual depiction was of sexually explicit conduct; and

11 e) Fifth, that I knew that at least one of the persons engaged in sexually explicit conduct in  
12 such visual depiction was a minor.

13 In summary, I transferred images that I knew were child pornography from one device to another.

14 Some of those images got uploaded to the cloud through my google account. I downloaded those images  
15 off the internet.

17 **Count 5:**

18

19 a) First, that on or about and between June 21 and June 30, 2022, within the Eastern District  
20 of Washington, that I knowingly possessed any matter that I knew contained visual  
21 depictions of minors engaged in sexually explicit conduct;

- 1 b) Second, that I knew the visual depictions contained in the matters showed minors
- 2 engaged in sexually explicit conduct;
- 3
- 4 c) Third, that I knew that production of such visual depictions involved the use of a minor
- 5 in sexually explicit conduct; and
- 6
- 7 d) Fourth, those visual depictions had been transported using any means or facility of
- 8 interstate commerce or produced using materials that had been shipped or transported
- 9 using any means or facility of interstate commerce or had been shipped and transported
- 10 in and affecting interstate and foreign commerce by any means including by computer.

11 In summary, on the dates and times listed in the Indictment, I knowingly possessed images of child  
12 pornography that I had downloaded off the internet.

13 **ACKNOWLEDGEMENTS:**

14 I have read this Statement of Defendant on Plea of Guilty. I have carefully reviewed and discussed  
15 every paragraph with my attorney. I understand its terms and am satisfied with the representation of my  
16 attorney in this case. I enter these pleas knowingly, intelligently, and voluntarily. No one has threatened  
17 harm of any kind to me or anyone else to force me to plead guilty. No one has made promises to me or  
18

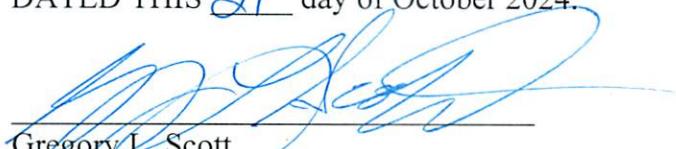
1 anyone else to get me to plead guilty. I agree to plead guilty to these charges because I am guilty. I have  
2 no further questions to ask the Judge.

3  
4 DATED this 21<sup>st</sup> day of October 2024.

5   
6 David Roger Franklin

7  
8 I have read this Statement of Defendant on Plea of Guilty and have discussed the contents of it with  
9 my client. I believe that he understands it and is making this decision freely and voluntarily. I know of no  
10 legal reason why the court should not accept the Defendant's guilty pleas.

11 DATED THIS 21<sup>st</sup> day of October 2024.

12   
13 Gregory L. Scott  
14 WSBA #17433  
15 Attorney for David Franklin